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CENTRAL FAX CENTER****FEB 23 2005**

Date: February 23, 2005

To: Commissioner for Patents
Fax No. (703) 872-9306

For: Rosalind V. Smith
Legal Instruments Examiner

Copy: Docketing Department

From: Allen J. Hoover
Registration No. 24,103
Direct Phone (312) 876-2107
E-Mail AJHOOVER @ WOODPHILLIPS.COM

Re: United States Patent Application No. 10/692,703
Attorney Docket No. TRI4546P0161US

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence [this page, a copy of a Notice of Non-Compliant Amendment, a Response to Notice of Non-Compliant Amendment, and a blank copy of Form PTO/SB/05 (09-04)] is being facsimile transmitted to the Commissioner for Patent at facsimile number (703) 872-9306 on February 23, 2005.



THE MESSAGE TRANSMITTED UNDER THIS COVER IS INTENDED FOR THE NAMED RECIPIENT ONLY, AND MAY CONTAIN BUSINESS CONFIDENTIAL INFORMATION, OR INFORMATION SUBJECT TO ATTORNEY-CLIENT PRIVILEGE, OR ATTORNEY WORK PRODUCT IMMUNITY. IN THE EVENT THIS MESSAGE IS RECEIVED AT A LOCATION WHERE IT CANNOT BE CONVEYED TO THE NAMED RECIPIENT, KINDLY NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE/FACSIMILE (IF LONG DISTANCE, PLEASE CALL COLLECT), AND RETURN THE RECEIVED MESSAGE TO US BY MAIL.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joseph M. Koenig, Jr.)
Application: 10/692,703)
Docket No.: TRI4546P0161US)

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RESPONSE TO NOTICE OF
NON-COMPLIANT AMENDMENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Attention: Rosalind V. Smith
Legal Instruments Examiner

Sir:

Reference is made to a Notice of Non-Compliant Amendment, a copy of which is submitted herewith. As continuing data are presented on the first page of the specification, as filed, a preliminary amendment is unnecessary.

The applicant is not relying on the inclusion of continuing data in the transmittal letter to perfect the claim to domestic priority.

As to the inclusion of continuing data on a transmittal letter, it is noted that Form PT/SBO/05(09-04) published by the Office provides in Section 18 for the inclusion of continuing data. A blank copy of Form PTO/SB/05/(09-04) is submitted herewith for convenient reference.

Respectfully submitted,

By: Allen J. Hoover
Allen J. Hoover
Reg. No. 24,103

Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street - Suite 3800
Chicago, Illinois 60661-2511
Telephone: (312) 876-1800
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February 23, 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

10/692,703

COMMUNICATIONS SECTION
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1000
ALEXANDRIA, VA 22313-1000
www.uspto.gov

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 10/24/03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☒ C. Other Continuing data as of July 30, 2003, cannot be a part of transmittal letter, please correct and submit as separate Pre-Amendment
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opa/prognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Rosalind V. Smith

571-272-4392

Telephone No.

Rev. 6/04

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PTO/SB/05 (09-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.

First Inventor

Title

Express Mail Label No.

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☐ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☐ Specification [Total Pages _____]
Both the claims and abstract must start on a new page
(For information on the preferred arrangement, see MPEP 608.01(a))
4. ☐ Drawing(s) (35 U.S.C. 113) [Total Sheets _____]
5. ☐ Oath or Declaration [Total Sheets _____]
 - a. ☐ Newly executed (original or copy)
 - b. ☐ A copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
 - i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s)
name in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76
7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
☐ Landscape Table on CD
8. ☐ Nucleotide and/or Amino Acid Sequence Submission
(if applicable, items a. - c. are required)
 - a. ☐ Computer Readable Form (CRF)
 - b. ☐ Specification Sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☐ Paper
 - c. ☐ Statements verifying identity of above copies

ADDRESS TO:

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
Name of Assignee _____
10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (PTO/SB/08 or PTO-1449)
☐ Copies of citations attached
13. ☐ Preliminary Amendment
14. ☐ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).
Applicant must attach form PTO/SB/35 or equivalent.
17. ☐ Other: _____

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation☐ Divisional☐ Continuation-in-part (CIP)

of prior application No.: _____

Prior application information:

Examiner _____

Art Unit: _____

19. CORRESPONDENCE ADDRESS

☐ The address associated with Customer Number: _____OR ☐ Correspondence address below

Name

Address

City

State

Zip Code

Country

Telephone

Fax

Signature

Date

Name

(Print/Type)

Registration No.

(Attorney/Agent)

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Applicant: Joseph M. Koenig, Jr.)
Application: 10/692,703)
Docket No.: TRI4546P0161US)

RESPONSE TO NOTICE OF
NON-COMPLIANT AMENDMENT

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Alexandria, VA 22313-1451

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